

EXHIBIT A

COMMONWEALTH OF KENTUCKY
KENTON CIRCUIT COURT
DIVISION III
CIVIL ACTION NO. 19-CI-1863
Electronically filed

GEICO GENERAL INSURANCE COMPANY; and
BONITA S. HAMILTON

PLAINTIFFS

v. **THIRD PARTY DEFENDANT/COUNTERCLAIMANT**
DEREK HALL'S FIRST AMENDED COUNTERCLAIM

MARTIN ANDREW HAAS, JR., PUBLIC
ADMINISTRATOR OF ANCILLARY
ESTATE OF CARL EUGENE GROSS; and
USF HOLLAND LLC

DEFENDANTS/
THIRD PARTY PLAINTIFFS

v.

DEREK HALL

THIRD-PARTY DEFENDANT/
COUNTERCLAIMANT

FIRST AMENDED COUNTERCLAIM OF DEREK HALL

Comes the Third-Party Defendant/Counterclaimant, Derek Hall ("Hall"), by counsel, and for his First Amended Counterclaim with Jury Demand against the Third-Party Plaintiffs/Defendants, Martin Andrew Haas, Jr., Public Administrator of ancillary estate of Carl Eugene Gross ("Third-Party Plaintiff" or "Defendant" or "Gross"), and USF Holland LLC ("Third-Party Plaintiff" or "Defendant" or "USF Holland"), states as follows:

PARTIES, JURISDICTION, AND VENUE

1. At all relevant times hereto, Third-Party Plaintiff/Defendant Carl Gross resided at 3590 Middletown Road, Waynesville, Warren County, OH 45068.
2. Subsequent to the Collision described below, Carl Gross passed away and after the appointment of an executor by the Probate Court of Warren County, Ohio to administer the estate of Carl Eugene Gross, by Order dated June 13, 2022, Martin Andrew Haas, Jr.

was appointed by the Kenton District Court of Kenton County, Kentucky, as Public Administrator of ancillary estate of Carl Eugene Gross. A copy of the Order Opening Ancillary Estate and Appointing Public Administrator has previously been filed in the record of this matter.

3. At all relevant times hereto, Third-Party Plaintiff/Defendant USF Holland LLC was a foreign limited liability company operating a trucking business in the Commonwealth of Kentucky with its principal office located at 10990 Roe Avenue, MS A515, Overland Park, Kansas 66211-1213, and its registered agent listed s CT Corporation System, 306 W. Main Street, Suite 512, Frankfort, Kentucky 40601.
4. The Collision described below occurred in Kenton County, Kentucky.
5. This is an action for damages which exceeds the jurisdictional minimum of this Court.

FACTS OF THE CASE

6. Hall restates and incorporates by reference the allegations in every paragraph heretofore stated as if fully set out herein.
7. On or about May 18, 2019, while traveling south on Interstate I-75 near Piner, Kenton County, Kentucky, Gross and USF Holland struck the rear of Hall's vehicle at a high rate of speed with his tractor trailer causing a severe collision and injuries to Hall (the "Collision").
8. Gross and USF Holland struck Hall while driving the tractor trailer owned by his employer, USF Holland ("Tractor Trailer").
9. At all relevant times hereto, Gross was an employee, agent and/or servant of USF Holland.

10. Gross and USF Holland failed to properly slow the Tractor Trailer prior to striking Hall directly in the rear.
11. Hall has sustained serious injuries and has received significant medical treatment as a result of the Collision.

COUNT I: Negligence

12. Hall restates and incorporates by reference the allegations in every paragraph heretofore stated as if fully set out herein.
13. Gross and USF Holland negligently and carelessly operated the Tractor Trailer causing the Collision, causing physical injuries to Hall.
14. The negligence of Gross and USF Holland in the operation of the Tractor Trailer was a substantial factor in causing Hall to suffer in the past and continue in the future from severe permanent injuries and damages including, but not limited to, medical expenses, bodily injury, physical impairment, pain and suffering, permanent impairment, mental anguish, emotional distress, inconvenience, disfigurement, disability, loss of income due to an inability to work, and impairment of ability to earn money (“Injuries and Damages”), all in an amount exceeding the jurisdictional minimum of this Court.
15. As a direct result of the negligence of Gross and USF Holland, Hall is entitled to recover from Martin Andrew Haas, Jr., Public Administrator of ancillary estate of Carl Eugene Gross, and USF Holland all damages sustained by Hall.

COUNT II: Negligence Per Se

16. Hall restates and incorporates by reference the allegations in every paragraph heretofore stated as if fully set out herein.

17. Gross and USF Holland's violation of applicable state driving and roadway laws enacted for safety purposes and intended to prevent injuries of the type suffered by Hall and protect persons such as Hall, and which violation directly caused Hall's Injuries and Damages, constitutes negligence *per se*.
18. As a direct result of Gross and USF Holland's negligence *per se*, Hall is entitled to recover from Martin Andrew Haas, Jr., Public Administrator of ancillary estate of Carl Eugene Gross, and USF Holland all damages sustained by Hall.

COUNT III: Gross Negligence/Punitive Damages

19. Hall restates and incorporates by reference the allegations in every paragraph heretofore stated as if fully set out herein.
20. Gross and USF Holland's operation of the Tractor Trailer was with gross negligence and/or recklessness.
21. As a direct result of the actions and/or inactions of Gross and USF Holland constituting gross negligence and/or recklessness, Hall is entitled to recover compensatory damages.
22. As a direct result of the actions and/or inactions of Gross and USF Holland constituting gross negligence and/or recklessness, Hall is entitled to recover punitive damages in an amount sufficient to punish and deter Gross and USF Holland and others from such conduct.
23. As a direct result of the gross negligence and/or recklessness of Gross and USF Holland, Hall is entitled to recover from Martin Andrew Haas, Jr., Public Administrator of ancillary estate of Carl Eugene Gross, and USF Holland all damages sustained by Hall.

COUNT IV: Failure to Follow Policies and Procedures and Negligent Hiring, Training, Supervision, Controlling and Retention

24. Hall restates and incorporates by reference the allegations in every paragraph heretofore stated as if fully set out herein.
25. Gross and USF Holland failed to follow their own policies and procedures.
26. USF Holland acted negligently in hiring, training, supervising, controlling and/or retaining Gross.
27. Martin Andrew Haas, Jr., Public Administrator of ancillary estate of Carl Eugene Gross, and USF Holland are liable for all actions and/or inactions in failing to follow established policies and procedures and USF Holland is liable for improperly hiring, training, supervising, controlling and/or retaining Gross.
28. The failure of Gross and USF Holland to follow their policies and procedures and USF Holland's negligent hiring, training, supervising, controlling and/or retaining were substantial factors in causing Hall to suffer damages as described herein.
29. As a result of USF Holland's negligent hiring, training, supervision, controlling, and/or retention, Hall is entitled to recover from Martin Andrew Haas, Jr., Public Administrator of ancillary estate of Carl Eugene Gross, and USF Holland all damages sustained by Hall.

PRAYER FOR RELIEF AND JURY DEMAND

WHEREFORE, Derek Hall, by counsel, prays for the following relief against Martin Andrew Haas, Jr., Public Administrator of ancillary estate of Carl Eugene Gross, and USF Holland, jointly and severally, as follows:

- A. Judgment against Martin Andrew Haas, Jr., Public Administrator of ancillary estate of Carl Eugene Gross, and USF Holland in an amount that will fairly and adequately compensate Hall in excess of the minimum jurisdictional limits of this Court for all

- damages alleged herein in an amount to be determined by a jury, together with pre-judgment and post-judgment interest at the legal rate until paid;
- B. Judgment awarding punitive damages against Martin Andrew Haas, Jr., Public Administrator of ancillary estate of Carl Eugene Gross, and USF Holland in an amount to be determined by a jury, together with pre-judgment and post-judgment interest at the legal rate until paid, all in an amount exceeding the jurisdictional minimum of this Court;
- C. Judgment against Martin Andrew Haas, Jr., Public Administrator of ancillary estate of Carl Eugene Gross, and USF Holland awarding Hall his costs and expenses reasonably incurred, together with pre-judgment and post-judgment interest at the legal rate until paid;
- D. Judgment against Martin Andrew Haas, Jr., Public Administrator of ancillary estate of Carl Eugene Gross, and USF Holland awarding Hall his attorney's fees incurred in this action as allowed by law, together with pre-judgment and post-judgment interest at the legal rate until paid;
- E. Trial by jury;
- F. That the Third-Party Complaint of Gross and USF Holland against Hall be dismissed, with prejudice;
- G. For attorney's fees and costs incurred in defending this action, as allowed by law; and
- H. Any and all other relief to which Hall may be entitled.

Respectfully submitted,

/s/ D. Todd Varellas

Sandra M. Varellas

D. Todd Varellas

Preston P. Cahill

VARELLAS & VARELLAS

249 West Short Street, Suite 201

Lexington, Kentucky 40507
(859) 252-4473
(859) 252-4476 (fax)
svarellas@varellaslaw.com
tvarellas@varellaslaw.com
pcahill@varellaslaw.com
legalasst@varellaslaw.com
COUNSEL FOR DEREK HALL

CERTIFICATE OF SERVICE

It is hereby certified that a true and correct copy of the foregoing has been served by email on June 30, 2022 to:

Daran P. Kiefer
Gregory G. Beck
KREINER & PETERS CO., L.P.A.
P.O. Box 1209
Dublin, OH 43017
dkiefer@subrogation-recovery.com
gbeck@subrogation-recovery.com
*COUNSEL FOR PLAINTIFFS
GEICO GENERAL INSURANCE
COMPANY AND BONITA S. HAMILTON*

J. Kelly Ratliff
REMINER CO., LPA
250 Grandview Drive, Suite 550
Ft. Mitchell, KY 41017
kratliff@reminger.com
*COUNSEL FOR DEFENDANTS CARL
GROSS AND USF HOLLAND LLC*

John. J. Garvey III
Jason E. Abeln
GARVEY, SHEARER, NORDSTROM, PSC
2388 Grandview Drive
Fort Mitchell, KY 41017
jgarvey@gsn-law.com
jabeln@gsn-law.com
*COUNSEL FOR COUNTERCLAIM DEFENDANT
BONITA S. HAMILTON AND THIRD-PARTY
DEFENDANT DEREK HALL*

/s/ D. Todd Varellas
VARELLAS & VARELLAS
COUNSEL FOR DEREK HALL